

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

JAMES F. KIERPIEC,

Plaintiff,

v.

Case No. 2:07-cv-151
HON. R. ALLAN EDGAR

PATRICIA CARUSO, et al.,

Defendants.

OPINION AND ORDER APPROVING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action on May 23, 2008. The Report and Recommendation was duly served on the parties. The Court has received objections from plaintiff. In accordance with 28 U.S.C. § 636(b)(1), the Court has performed *de novo* consideration of those portions of the Report and Recommendation to which objection has been made. The Court now finds the objections to be without merit. Defendant Scarff has shown that plaintiff failed to properly exhaust his grievance remedies against defendant Scarff. Defendant Scarff is entitled to dismissal without prejudice.

THEREFORE, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge (Docket #71) is approved and adopted as the opinion of the Court.

IT IS FURTHER ORDERED that defendant Scarff's motion to dismiss (Docket #53) is GRANTED and defendant Scarff is DISMISSED without prejudice.

FINALLY, IT IS ORDERED that defendant Scarff's motion for a protective order staying discovery (Docket #55) is DENIED as moot.

Dated: 8/29/08

/s/ R. Allan Edgar
R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE